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VETERANS' COMPENSATION AMENDMENTS OF 1986

JULY 31, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 5299]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 5299) to amend title 38, United States Code, to provide a 2.0 percent increase in the rates of compensation and of dependency and indemnity compensation (DIC) paid by the Veterans' Administration, and for other purposes, having considered the same, report favorably thereon without amendment by unanimous voice vote and recommend that the bill do pass.

INTRODUCTION

The administration's proposed fiscal year 1987 budget request submitted earlier this year recommended a 3.7 percent cost-of-living allowance (COLA) for the service-connected disability compensation and DIC programs. The 3.7 percent rate adjustment represented the increase that was anticipated, at that time, for the indexed non-service-connected pension program, based on the changes in the Consumer Price Index (CPI) from the third quarter of calendar year 1985 to the third quarter of calendar year 1986. The increase proposed by the administration would become effective December 1, 1986.

In its report to the Committee on the Budget (February 27, 1986), the committee recommended that the First Concurrent Budget Resolution contain new budget authority and outlays for a 3.7 percent increase effective December 1, 1986. The resolution, as passed by the House, included a 3.4 percent increase based on the then current economic assumptions. The conference agreement on the pro-

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posed budget for fiscal year 1987, adopted by both houses, limited all Federal COLA's to not more than 2 percent.

In hearings before the Subcommittee on Compensation, Pension and Insurance on May 15, 1986, spokesmen for the Veterans' Administration testified that the Administration would support an increase equal to that received by social security and non-service-connected pension beneficiaries effective December 1 of this calendar year.

H.R. 4391 and H.R. 4802 were also considered at the legislative hearing before the subcommittee on May 15, 1986. These bills would address some of the inequitable effects on severely service-connected veterans of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177). These bills would provide that a limited number of programs affecting service-connected disabled veterans and other programs which do not have a budgetary impact would be exempt from sequestration under PL 99–177.

On July 24, the subcommittee recommended a draft bill providing a two percent COLA, as limited by the budget resolution. The subcommittee also recommended H.R. 4802 to the full Committee.

On July 29, the committee ordered reported a clean bill, to provide a 2 percent COLA effective December 1, 1986 and to exempt from sequestration the programs as provided in H.R. 4802.

COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Background

There were 2,228,619 veterans receiving disability compensation as of July 1, 1986. The Veterans' Administration expenditures for disability compensation for fiscal year 1986 is expected to be $8.4 billion.

The basic purpose of the disability compensation program, throughout its history, has been one of providing a measure of relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability, which, in turn, is required by law to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations.

To be eligible to receive disability compensation a veteran must have contracted a disease, suffered an injury which is not the result of willful misconduct, or aggravated an existing disease or injury in the line of duty during active duty service and have been discharged under other than dishonorable conditions.

The responsibility for determining a veteran's entitlement to service connection for a disability rests solely with the Veterans' Administration. This determination is based upon the service medical records or other evidence which may be presented to the Veterans' Administration by the veteran. The law provides that if a veteran had service of 90 days or more during time of war or after December 31, 1946, and develops a chronic or tropical disease to a degree of 10 percent or more within 1 year of his discharge from such service, service connection may be granted by presumption.

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Service connection may be granted by presumption for active tuberculosis or Hansen's disease (leprosy) which becomes manifest to a degree of 10 percent or more within 3 years of a veteran's discharge from such service and for multiple sclerosis becoming manifest to a 10-percent degree within 7 years of a veteran's discharge from such service. In cases of prisoners of war, diseases related to nutritional deficiencies or anxiety states or psychosis which become manifest to a degree of 10 percent or more at any time after service, may be granted service connection on a presumptive basis.

When a claim for service-connected disability benefits is received by the Veterans' Administration, that agency obtains the service medical records and the issue of service connection is generally decided based upon such records. If the service medical records do not establish that the disability was incurred in service, the veteran may submit evidence to substantiate the contention. Generally, this may be by statements from persons with whom the veteran served relating knowledge of the veteran's injury or disease. The Veterans' Administration also would consider the question of entitlement to service connection by presumption if the disability is a chronic disease becoming manifest within the prescribed period of time. If a veteran is granted service connection, the percentage of disability is generally based upon the findings of a VA examination. If a veteran with a service-connected disability should feel in some later year that the disability has increased in severity, evidence of this, usually, a statement of recent medical treatment, may be presented to the Veterans' Administration to request reevaluation of the disability. Should the Veterans' Administration deny service connection or deny a request for an increased rating, the veteran may appeal the denial decision to the Board of Veteran's Appeals provided the veteran notifies the agency of his or her disagreement with the decision within one year of the date of notification of the decision.

The law provides that a case involving a complex or controversial medical issue may be referred to a medical specialist outside of the Veteran's Administration for an advisory opinion. The law also provides that, if service connection for a veteran's disability has been in existence for 10 or more years, service connection may not be severed except in the case of fraud. The law further provides that a disability rated continuously at or above an evaluation for 20 or more years shall not thereafter be rated at a lesser evaluation.

The percentage of disability for a specific disability is assigned by the Veterans' Administration. That agency has established a "Schedule for Rating Disabilities" which is used as the guideline for the measuring of the degree of disability. Compensation is paid for disabilities at ratings of 10 percent, 20 percent, 30 percent, and so forth up to 100 percent. The amount of compensation payable for each percentage of disability is established by law. Additional compensation is payable for the loss of a limb, blindness, and other severe disabilities. Additional dependency allowance is payable to veterans with a rating of 30 percent or more for a spouse, minor children, or dependent parents.

PERCENT OF INCREASE IN COMPENSATION RATES

From December 1945 through November 1985, the cumulative increase in the Consumer Price Index (CPI) was 491.9 percent. During the same period, the cumulative increase in the compensation rate paid for the totally and permanently disabled service-connected unmarried veteran was 1060.9 percent.

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVORS OF VETERANS WHO HAVE DIED OF SERVICE-CONNECTED CAUSES

As of July 1986, there are 261,345 spouses and 50,911 children receiving dependency and indemnity compensation (DIC). These are the survivors of more than 300,000 veterans who either died in service or who died of service-incurred causes. Over $2.0 billion is expected to be paid in fiscal year 1986 to the survivors. Widows and children of veterans who died of causes determined to be service-connected are entitled to receive monthly DIC.

The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and children. Payments of DIC for surviving spouses are determined on the basis of the veteran's service pay-grade and range from $491 a month for the surviving spouse of an E–1 to $1,255 for the surviving spouse of an O–10. Surviving spouses are entitled to an additional $57 for each child.

There is an additional allowance of $147 monthly which is payable to eligible surviving spouses who are patients in a nursing home or who are in need of the regular aid and attendance of another person.

Surviving spouses qualified for DIC who are not so disabled as to require the regular aid and attendance of another person but who, due to disability, are permanently housebound, may be granted a special allowance of $72 monthly in addition to the DIC rate otherwise payable.

If there is no surviving spouse receiving dependency and indemnity compensation benefits but there is a surviving child, the child is entitled to $247 monthly with additional benefits for other children.

When a service-connected disability is found to be the principal or contributory cause of death, such death is considered to be service connected. These determintions are made on a very liberal basis. For example, there are disabilities which by their very nature are so overwhelming that eventual death can be anticipated irrespective of co-existing condition. Even though such a disability is non-service-connected and is the primary cause of death, consideration is given to whether the co-existing service-connected conditions were of such severity as to have been a material influence in accelerating death. Where death had been so accelerated, it will be considered service connected. The death of any veteran whose service-connected disabilities were the primary cause of death or contributed materially in producing death would, of course, render the survivor basically eligible for service-connected death benefits.

The same benefits provided for those entitled to DIC are also payable to surviving spouses or children of certain veterans whose deaths are not service-connected but who, at death, had been in receipt of total (100 percent) ratings for service-connected disabilities. It is necessary for entitlement under this provision that the 100 percent rating has been in effect continuously for at least 10 years at death; or continuously since service and for at least 5 years. A surviving spouse must have been married to a veteran for at least 2 years at the time of death before entitlement exists.

The following table shows by war period the number of surviving spouses and children of service-connected veterans in receipt of survivors' death benefits:

ACTIVE DEPENDENCY AND INDEMNITY COMPENSATION CASES

	DIC beneficiaries		
	Total	Widows	Children
Total	312,256	261,345	50,911
World War I	21,090	20,276	814
World War II	123,578	118,460	5,118
Korean conflict	29,543	27,203	2,340
Vietnam era	80,683	52,346	28,337
Spanish/American War	73	58	15
Mexican border period	1	1	0
Indian War			
Civil War	2	2	0
Regular establishment	57,286	42,999	14,287

Historically, the Congress has increased compensation rates whenever there has been an appreciable increase in the cost-of-living index, since the rates are not indexed to the Consumer Price Index by law. This is necessary to ensure that inflation does not erode the purchasing power of those receiving compensation and DIC benefits.

LIMITATIONS UNDER PUBLIC LAW 99–177

At the time that the legislation, subsequently enacted as Public Law 99–177, was under consideration in the House, provisions were inserted to exempt programs for service-connected disabled veterans from sequestration. Specifically, compensation for service-incurred disabilities was given the same exemption as that afforded social security beneficiaries.

Subsequent to enactment, the sequestration order required a number of ancillary benefits for severely disabled service-connected veterans to be reduced for the period of March 1, 1986 through September 30, 1986. These included housing benefits for wheelchair homes, the burial allowance payable for veterans who die of service-connected causes, the automobile and adaptive equipment allowance for veterans with service-connected amputations, vocational training for veterans with service-connected disabilities which produce pronounced vocational handicaps, and the educational program for dependents of totally disabled service-connected veterans and survivors of those veterans who die of service-connected causes.

The Committee believes that these programs, which are only available to veterans with service-connected disabilities or to their spouses or children, are an integral part of the compensation which a grateful nation makes available to these individuals. They should be afforded the same protection against across-the-board cuts which was given to the underlying compensation benefit.

The sequestration order also created a ceiling, imposed for the first time by that sequestration order, limiting VA home loan commitments. As a result of the improving economy and the lowering of interest rates which produced an unprecedented increase in VA home loans, the agency twice this calendar year faced a shutdown of the home loan program. Each time, the Congress approved legislation to increase the ceiling to permit the program to continue operation. The Committee has concluded that the sequestration process should not apply to the VA home loan programs since loan guarantees require no direct Federal outlays. A reduction in the number of loans will not result in any deficit reductions. The actual result of limiting the number of home loans would be to decrease revenue generated by the one percent user fee required of all veterans who do not have service-connected disabilities.

The sequestration order also placed a limitation on the loans veterans can obtain on their GI insurance policies. Those veterans who choose to request policy loans are merely borrowing their own funds.

The sequestration order limited the use of the special therapeutic and rehabilitation activities fund and the veterans canteen service revolving fund. These are self-supporting funds which require no outlays.

The Committee has been made aware of unfair and inequitable results on other benefit programs of the Veterans' Administration resulting from sequestration. As implemented by the VA, Public Law 99–177, which required reduction in outlays, made reductions in the rate of veterans' benefits dependent on the date of the agency's administrative action to pay the benefit, rather than on the date of the entitling event. For example, if a veteran died in January 1986 from a non-service-connected disease or injury, the full payment of $300 was made if authorized prior to March 1, 1986. On the other hand, if the VA was unable to process the payment until after February 28, payment was made at less than 100 cents on the dollar.

In addition to the unfairness of this, it also presents an opportunity for mischief on the part of the agency. Although the Committee is not aware of any instance of manipulation on the part of the Veterans' Administration, it could have scheduled its work-load in February to process payments not subject to sequestration, leaving payments subject to sequestration until March so as to pay less than the statutory rate. Similarly, as the end of September approaches, the agency could concentrate on paying all of the sequestered claims, leaving non-sequestered benefit payments until October when payments may be due at the full rate.

The reported bill would simply say that the rate of payment for a benefit affected by sequestration would be based on the date of entitlement, rather than when payment was made. The effect of this particular provision would be to realize the savings required

by Public Law 99-177 for these programs; however, the savings would be spread over a slightly different period. This is simple fairness and equity. The Committee believes such cuts should be made on a logical and fair basis and not be exposed to the risk of manipulation of case loads by the Veterans' Administration.

Should the proposed rate increase be enacted, the changes in compensation and DIC rates effective December 1, 1986 would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE DEC. 1, 1986

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$68	$69
(b) 20 percent	126	129
(c) 30 percent	191	195
(d) 40 percent	274	279
(e) 50 percent	388	396
(f) 60 percent	489	499
(g) 70 percent	617	629
(h) 80 percent	713	727
(i) 90 percent	803	819
(j) 100 percent	1,335	1,362
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	62	63
(2) Limit for veterans receiving payments under (a) to (j) above	1,659	1,692
(3) Limit for veterans receiving benefits under (l) to (n) below	2,325	2,372
(l) Anatomical loss or loss of use of both feet, one foot and one hand, blindness in both eyes (5/200 visual acuity or less), permanently bedridden or so helpless as to require aid and attendance	1,659	1,692
(m) Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light perception only or rendering veteran so helpless as to require aid and attendance	1,829	1,866
Percentage of disability or subsection under which payment is authorized:		
(n) Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis	2,080	2,122
(o) Disability under conditions entitling veterans to two or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis	2,325	2,372
(p) (1) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed	2,325	2,372
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of one ear or service-connected loss or loss of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed	2,325	2,372
(3) Blindness with only light perception or less with bilateral deafness (hearing impairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling, the next intermediate rate is payable, but in no event may compensation exceed	2,325	2,372
(4) Anatomical loss or loss of use of three extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	2,325	2,372

COMPENSATION AND DIC RATES EFFECTIVE DEC. 1, 1986—Continued

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(q) [This subsection repealed by Public Law 90–493.]		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	998	1,018
(2) If the veteran, in addition to need for regular aid and attendance, is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	1,487	1,517
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	1,494	1,524
(t) Additional monthly allowance for a veteran in receipt of compensation for a disability not evaluated more than 90 percent disabling who has suffered a service-connected loss or loss of use of an extremity evaluated not less than 40 percent and has suffered a non-service-connected loss or loss of use of the paired extremity evaluated at not less than 40 percent	289	295

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80 or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From	To
If and while veteran is rated totally disabled and—		
Has a spouse	$81	$83
Has a spouse and child	136	139
Has no spouse, 1 child	56	57
For each additional child	43	44
For each dependent parent	56	57
For each child age 18–22 attending school	124	126
Has a spouse in nursing home or severely disabled	147	150

The following increase are provided for surviving spouses of deceased veterans whose deaths are service-connected and who are receiving dependency and indemnity compensation (DIC) payments.

Pay grade	From	To
E–1	$491	$501
E–2	505	515
E–3	518	528
E–4	552	563
E–5	566	577
E–6	578	590
E–7	607	619
E–8	640	653
E–9	[1] 669	[1] 682

Pay grade	From	To
W–1	621	633
W–2	645	658
W–3	664	677
W–4	703	717
O–1	621	633
O–2	640	653
O–3	686	700
O–4	725	740
O–5	799	815
O–6	900	918
O–7	973	992
O–8	1,067	1,088
O–9	1,145	1,168
O–10	[1] 1,255	[2] 1,280

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $736.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,372.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows.

	Increase (monthly rate)	
	From	To
One child	$247	$252
Two children	356	363
Three children	460	469
Each additional child	93	95

Summary of the Reported Bill

H.R.——, as reported, would increase the rates of compensation effective December 1, 1986, by 2 percent for service-connected disabilities as well as dependency and indemnity compensation for surviving spouses and children of veterans who die of service-connected causes. The bill would also increase by 2 percent the aid and attendance allowance payable to eligible veterans and surviving spouses, the additional amounts for dependents and survivors, and the clothing allowance for certain veterans. In addition, the bill would:

(1) Require a fiduciary for an incompetent or minor Veterans' Administration beneficiary to provide information to the agency which is necessary to establish the eligibility of the beneficiary to VA benefits.

(2) Exempt from sequestration in fiscal year 1987 and later the following programs relating to service-connected veterans:

(a) Wheelchair homes for catastrophically service-connected disabled veterans.

(b) Service-connected burial allowance for veterans who died of service-connected disabilities.

(c) Vocational training for service-connected veterans.

(d) Dependents educational benefits for dependents and survivors of totally disabled service-connected veterans.

(e) Automobile allowance and adaptive equipment for service-connected amputees.

(3) Provide that GI insurance loans, the special therapeutic and rehabilitation activities fund and the veterans canteen service revolving fund would not be limited or restricted by Public Law 99–177.

(4) Provide that the reduction of a benefit in fiscal year, triggered by sequestration, would be governed by the date of the entitling event rather than by the date of the Veterans' Administration's administrative action on the claim.

SECTION-BY-SECTION ANALYSIS OF H.R.———

TITLE I—RATE INCREASES

Section 101

Would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

Subsection (a) of section 101 would amend subsections (a) through (j) of present section 314 to increase by; 2 percent the basic monthly rates of compensation paid to veterans with service-connected disabilities rated from 10 to 100 percent. The Committee bill would also increase by 2 percent:

The limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314;

The higher monthly rates of compensation authorized under subsections (l) through (o) and (s) of section 314 for veterans with certain combinations of severe disabilities;

The maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf;

The rates payable monthly under subsection (r) to veterans who are in need of aid and attendance;

The rate payable under subsection (s) to veterans who are permanently housebound; and

The additional amount payable under subsection (t) to certain veterans who have suffered the service-connected loss or loss of use of an extremity and the non-service-connected loss or loss of use of the other paired extremity.

Subsection (b) of section 101 would authorize the Administrator to increase by 2 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38. Public Law 85–857 generally codified in title 38 of the United States Code the law relating to veterans' benefits; section 10 of that law provides that any person who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, is to continue to receive

benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, so long as he or she remains eligible.

Section 102

Would amend paragraph (1) of present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disabilities rated as 30 percent or more disabling who have spouses, children, or dependent parents, to increase those allowances by 2 percent. Under paragraph (2) of present section 315, which is not amended by the Committee bill, the additional compensation payable for dependents to veterans rated from 30- to 90-percent disabled is prorated, so that, for example, a veteran rated at 30 percent receives 30 percent of that amount specified in paragraph (1) of section 315.

Section 103

Would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of a prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veteran's clothing, to increase that allowance by 2 percent.

Section 104

Would amend present section 411 of title 38, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths are service connected.

Paragraph (1) of section 104 would amend subsection (a) of present section 411 to increase by 2 percent the DIC benefit payable monthly to the surviving spouse of a veteran who has died as a result of service-connected disability. Under current law, a surviving spouse's DIC is paid according to the pay grade—service rank—of the deceased veteran. The DIC rate payable to the surviving spouses of veterans who had attained the grades of E–1 through 0–10 would be increased by 2 percent, and proportionate increases would be provided in the rates payable to the surviving spouses of veterans who had served in the positions specified in footnotes 1 and 2 to the table of grades and rates in existing section 411. The enactment of these increases would automatically result in identical increases in the benefits payable at DIC rates under section 410(b) of title 38 to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service connected.

Paragraph (2) of section 104 would amend subsection (b) of present section 411 to increase by 2 percent the dependents' allowance for each child under the age of 18 to a surviving spouse receiving DIC.

Paragraph (3) of section 104 would amend subsection (c) of present section 411 to increase by 2 percent the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home or who is helpless or blind or so nearly helpless or blind as to be in need of regular aid and attendance.

Paragraph (4) of section 104 would amend subsection (d) of present section 411 to increase by 2 percent the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound.

Section 105

Would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service-connected, to provide a 2 percent increase in the monthly rates of DIC payable to the veteran's children where no surviving spouse is entitled. Benefits payable at DIC rates under present section 410(b) of title 38 to the surviving children of certain veterans compensated at the 100 percent rate whose deaths were not service connected would also be automatically increased as a result of this increase under section 413.

Section 106

Would amend present section 414 of title 38, relating to supplemental DIC for certain surviving children.

Paragraph (1) of section 106 would amend subsection (a) of present section 414 to provide a 2 percent increase in the additional allowance payable monthly to a child eligible for DIC who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Paragraph 2 of section 106 would amend subsection (b) of present section 414 to provide 2 percent increase in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Paragraph (3) of section 106 would amend subsection (c) of present section 414 to provide 2 percent increase in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Section 107

Would provide that the amendments made by this title shall take effect on December 1, 1986.

TITLE II—MISCELLANEOUS

Section 201

Would amend subsection (b) of present section 3202 of title 38 to authorize the Administrator to require a fiduciary to disclose any additional financial information concerning the recipient of veterans benefits that is within the fiduciary's knowledge.

Section 202

Subsection (a) of section 202 would add a new section 113 to title 38, United States Code, captioned "Treatment of certain programs under sequestration procedures."

New section 113: Subsection (a) lists 5 categories of benefits which would be exempted from inclusion in any joint report of the

Directors of OMB and CBO and any Presidential order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, namely: (1) chapter 21 benefits (specially adapted housing for disabled veterans); (2) burial benefits for service-connected deaths under section 907 of title 38; (3) chapter 31 benefits (training and rehabilitation for service-disabled veterans); (4) chapter 35 benefits (educational assistance for survivors and dependents of certain service-disabled veterans); and, (5) chapter 39 benefits (automobiles and adaptive equipment for certain disabled veterans and servicemembers).

Subsection (b). Provides that the following 8 accounts will also be exempt from inclusion in any such report or order: (1) the National Service Life Insurance Fund authorized by section 720 of title 38; (2) the Service-Disabled Veterans Insurance Fund authorized by section 722 of that title; (3) the Veterans Special Life Insurance Fund authorized by section 723; (4) the Veterans Reopened Insurance Fund (section 725); (5) the U.S. Government Life Insurance Fund (section 755); (6) the Veterans Insurance and Indemnity appropriation (section 719); (7) the VA Special Therapeutic and Rehabilitation Activities Fund (section 618(c); and, (8) the Veterans' Canteen Service revolving fund (section 4204).

Subsection (c). Would specify that with respect to burial benefits payable under section 901, 902, 906 or 908 of title 38, any reductions in payment under a sequestration order or sequestration law under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be governed by the sequestration order or law in effect on the date of death of the veteran concerned. Similarly, any reductions in benefits for pursuit of programs of education or training under chapters 30, 34 or 36 of title 38 would be governed by the rates applicable under any sequestration order or law in effect during the period of education or training for which the benefit is paid.

Subsection (d). Provides that in computing the amount of new budget authority by which a budget account of the Veterans' Administration is to be reduced for a fiscal year under a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office, or under an order of the President under Part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the base from which the amount of the reduction for such amount is determined shall be established without regard to any amount of new budget authority available in such account for any of the programs listed in subsection (a) of this section.

Subsection (b) of section 1 provides that the new section 113 of title 38 shall be effective with respect to sequestration orders issued or sequestration laws enacted for years after fiscal year 1986, except that with respect to veterans' life insurance accounts listed in subsection (b) of new section 113 it shall also be effective for any such law enacted for fiscal year 1986.

Subsection (c) of section 1 adds new section 1831 ("Exemption from certain provisions of law") to title 38 to specify that housing loan programs authorized under chapter 37 of title 38 shall be exempt, in fiscal year 1986 and thereafter, from reduction under any sequestration order or laws issued or enacted under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

OVERSIGHT FINDINGS

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee received the following letter from the Congressional Budget Office on the reported bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 31, 1986.

Hon. G.V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request, CBO has prepared the attached cost estimate for a draft of the Veterans' Compensation Amendments of 1986. We understand that the provisions contained in this measure were ordered reported by the House Committee on Veterans' Affairs on July 29, 1986.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: None.
2. Bill title: Veterans' Compensation Amendments of 1986.
3. Bill status: As ordered reported by the House Committee on Veterans' Affairs, July 29, 1986.
4. Bill purpose: To increase the rates of disability compensation and dependency and indemnity compensation (DIC) by 2.0 percent, to exempt certain Veterans' Administration (VA) programs from sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), and for other purposes.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Budget authority	173	205	201	198	194
Outlays	156	205	202	198	194

The cost of this bill would fall in budget function 700.

Basis of Estimate.—The following section-by-section cost analysis only addresses those sections of the bill that could be expected to have a significant budgetary impact.

Title I.—This title would increase the rates of disability compensation and dependency and indemnity compensation (DIC) by 2.0 percent, effective December 1, 1986.

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Budget authority	173	205	201	198	194
Outlays	156	205	202	198	194

The cost of this title was estimated by multiplying the average costs in each year for all disability compensation cases and for all DIC cases by 2.0 percent. The resulting average increases in costs per year were then multiplied by the estimated number of cases in each program each year to calculate the annual cost. Future average cost and caseload levels were projected according to historical trends for compensation recipients by period of service.

This title would also increase the rate payable under paragraph (k) (section 314, title 38, U.S.C.) to veterans for certain anatomical losses. This benefit has not been routinely increased with past cost-of-living adjustments. The cost of the increase in the paragraph (k) rate is estimated at $1.0 million per year and is included in the estimate above.

Title II Section 202.—This section would exempt 14 VA programs from reduction under the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99–177) in fiscal years 1987 and after. Eight programs, the VA life insurance and housing programs, would also be retroactively exempted from the 1986 sequester.

The exemption of these programs from the 1987 and future sequesters would have no net effect on the federal budget. Since the deficit targets established by P.L. 99–177 would not be changed by this bill, any required outlay reductions that are not achieved in the programs exempted by the bill would have to be made elsewhere in the budget.

The retroactive exemption of the VA insurance and housing programs from the 1986 sequester, however, would have a small cost in 1986 and a smaller savings in later years. Under the 1986 sequester order, outlays for insurance policy loans are to be reduced by $5.6 million. The VA is attempting to reduce the number of loans requested by maintaining the interest rate on such loans at 11 percent, rather than dropping the rate as planned to 9.0 percent. If an effective date of September 1, 1986 is assumed for this legislation, the increase in loan outlays that would be expected in the remaining month of the fiscal year should not be significant. Nominal outyears savings would result from the principal and interest payments on these few additional loans.

There would be no effect from retroactively exempting the Loan Guaranty Revolving Fund or the Direct Loan Revolving Fund from the 1986 sequester, because the current loan limitation in each of these programs exceeds the estimated level of loan activity for the fiscal year.

6. Estimated cost to State and local governments: The Congressional Budget Office has determined that the budgets of state and local governments would not be directly affected by enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: K.W. Shepherd.
10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Committee Cost Estimate

The Committee agrees with the cost estimate submitted by the Congressional Budget Office.

Inflationary Impact Statement

The enactment of the reported bill would have no inflationary impact.

Agency Reports

The Committee received the following views of the Veterans' Administration on legislation similar to the reported bill:

Veterans' Administration,
Office of the Administrator of Veterans Affairs,
Washington, DC, March 10, 1986.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives,
Washington, DC.

Dear Mr. Speaker: I am pleased to submit a draft bill to increase the statutory rates of disability compensation for veterans and rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes. I respectfully request that it be referred to the appropriate committee and enacted promptly.

Title I would authorize the increased rates of disability compensation and dependency and indemnity compensation. The disability compensation program is designed to provide monetary relief from impairments in earning capacity suffered by veterans disabled during, or as a result of, military service. Rates of compensation vary with the degrees of disability demonstrated, and additional compensation is payable for dependents if the veteran's disability is rated 30 percent or more disabling.

Dependency and indemnity compensation (DIC) benefits are payable under chapter 13 of title 38 of the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if a veteran's death was not service connected but the veteran was rated as totally disabled for a specified period prior to death. Surviving spouses' DIC rates are based on the veterans' military pay grades. A surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over the age of 18 who become helpless before reaching that age may receive DIC, as can those age 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC in the child's own right.

The administration of the disability compensation and DIC programs is one of the VA's most important missions. We recognize a

duty to recommend periodic adjustments in monthly rates as economic conditions change.

In recent years, compensation adjustments have been keyed to indexed cost-of-living increases in Social Security and VA pension. The current projection is for a 3.7 percent increase in Social Security rates when they are adjusted in December 1986. Accordingly, we recommend a corresponding increase of 3.7 percent in the rates of disability compensation and DIC, effective December 1, 1986.

Section 101 of the draft bill would increase rates of disability compensation, including the so-called special monthly compensation rates (except for the "k" rate), by approximately 3.7 percent. As with all rates in our proposal, odd amounts resulting from our computations were rounded down, to the nearest dollar.

Sections 102 and 103, respectively, would provide for an approximate 3.7 percent increase in rates of additional compensation for dependents, and in the clothing allowance payable under section 362 of title 38 to certain veterans wearing or using prosthetic or orthopedic appliances.

Sections 104 through 106 would increase DIC rates by approximately 3.7 percent, effective December 1, 1986.

As reflected in the President's FY 1987 budget request, our 5-year estimate of the cost of the enactment of the proposed increases under title I, based on a 3.7 percent rate adjustment, is as follows (in millions of dollars):

Fiscal year:	Cost
1987	$305.5
1988	365.5
1989	364.4
1990	363.1
1991	361.1

Title II of the draft bill contains two provisions designed to facilitate the proper administration and recovery of Government benefit funds.

Section 201 contains a provision to amend 38 U.S.C. §3101 to permit administrative offset against veterans' disability compensation and pension benefits to collect overpayments of military retired pay and retainer pay and delinquent Survivor Benefit Plan (SBP) and Retired Serviceman's Family Protection Plan (RSFPP) payments. Concurrent receipt of military retired pay and veterans' disability compensation or pension is prohibited by 38 U.S.C. §3104. However, overpayments frequently occur due to the eligibility of many veterans under both armed forces and veterans' programs. For example, through errors in reporting or coding of information, the service department concerned may not be informed that an applicant for VA benefits has waived military retired pay. Thus, an overpayment of retired pay may occur.

A comparison of Department of Defense and VA records as of December 1981 revealed over 5 million dollars in outstanding overpayments resulting from concurrent eligibility for military retired pay and VA compensation and pension benefits. While administrative measures, such as a computerized interagency data exchange program, are helping to identify and correct instances of erroneous concurrent payments, initial clerical errors and deliberate misre-

porting by recipients will continue to cause overpayments in some cases.

In many instances, outstanding balances can be offset against future entitlements by the agency making the overpayment. Sometimes, however, disbursements by the overpaying agency are discontinued upon discovery of dual eligibility and election of benefits. In such cases, collection through judicial proceedings is generally not cost-effective, and the only remaining recourse is to future entitlements owing from another agency.

Another problem arises when retired servicemembers participating in the SBP or the RSFPP waive retired pay in order to receive veterans' benefits. Such persons often fail to make required SBP or RSFPP payments in the absence of automatic deductions from military retired pay. The Department of Defense has identified 11,000 retired servicemembers who are indebted for over $9.2 million in delinquent SBP and RSFPP payments. Waiting to offset these delinquencies from eventual payments to beneficiaries is not only administratively inefficient but undermines the programs' objective of assistance to survivors of servicemembers. A preferable approach would be to collect delinquent payments by offset from veterans' benefits during the former members' lifetimes.

However, withholding of veterans' benefits to satisfy the claims of creditors has long been barred by 38 U.S.C. §3101(a). The VA has consistently interpreted that provision as prohibiting, except on a voluntary basis, offset of veterans' benefits to satisfy indebtedness arising out of programs administered by other Federal agencies. Authorization for collection of military retirement overpayments and SBP and RSFPP delinquencies from veterans' benefits is necessary if overpayments and delinquencies are to be effectively recovered.

This legislative proposal has been narrowly drawn to assure protection of the Government's interest, while minimizing any potential burdens on beneficiaries of VA programs. Significantly, the provision would continue the policy of Congress, the VA, and the Comptroller General, that the debts of one individual should not be collected through offset of benefits payable to another person. Other types of payments to armed forces personnel, e.g., separation pay overpayments, which have been adequately dealt with under existing authority and procedures, have been omitted from the proposal. To insure protection of the due process rights of beneficiaries, collections authorized by this measure will be conducted in accordance with the procedural requirements of 31 U.S.C. §3716. Also, in furtherance of administrative efficiency, the service department concerned will first exhaust all sources of recoupment within its own control before resorting to recovery from veterans' benefits.

The savings which would result from enactment of section 201 are undetermined, although it would clearly improve the efficiency and equity of recovery of the targeted overpayments.

The final provision of the bill, section 202, addresses a need for an enhanced accountability of fiduciaries. Section 3202(b) of title 38 presently authorizes the Administrator to require accounts from fiduciaries appointed or recognized by the Veterans' Administration, concerning the administration of benefit moneys entrusted to them

on behalf of VA beneficiaries. However, the law is unclear concerning whether the Administrator may require the fiduciary to furnish information concerning other, non-VA income and assets of the beneficiary of which the fiduciary has knowledge and/or control.

As a practical matter, there is no way to acquire an accurate understanding of the utilization of incompetent veterans' benefit funds without such additional information. For example, if a fiduciary were to show, in an account to this Agency, that a given amount of benefit funds was utilized for the veteran's rent, and at the same time report to the Social Security Administration that social security funds were used for the same purpose, an amount equal to the rent money could be misappropriated while the funds from both sources would appear to be properly accounted for.

Experience has shown that some fiduciaries have balked when requested to furnish such information. Without such information, the opportunities for misappropriation and fraudulent reporting abound, and VA oversight of proper use of benefit funds is severely hampered.

We estimate that benefit savings would be less than $1 million per year, and administrative savings would be less than $100 thousand per year. However, the significance of proper monitoring of the use of incompetent beneficiaries' funds becomes obvious when one considers that the VA pays approximately $900 million each year to, or on behalf of, incompetent beneficiaries.

We have been advised by the Office of Management and Budget that enactment of this draft legislation would be in accord with the program of the President.

Sincerely,

EVERETT ALVAREZ, Jr.,
Acting Administrator.

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, DC, June 12, 1986.

Hon. G.V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to provide the Veterans' Administration's (VA) views on two bills pending before your committee that would exempt from sequestration, under the Balanced Budget and Emergency Deficit Control Act of 1985, certain VA programs and activity funds.

H.R. 4391 would exempt, from any future sequestration orders, programs of specially adapted housing under chapter 21 of title 38; the funeral and burial allowance for service-connected deaths; vocational training and rehabilitation under chapter 31; educational assistance for survivors and dependents of certain service-disabled veterans under chapter 35; and, automobile and adaptive automotive equipment grants under chapter 39.

The second bill, H.R. 4802, would exempt both retroactively and prospectively direct loans under programs of permanent veterans' life insurance administered by the VA, and prospectively the fol-

lowing revolving funds: the special therapeutic and rehabilitation activities fund; the loan guaranty revolving fund; and, the Canteen Service fund. It would also provide that any future sequestration orders affecting burial benefits or education benefits under chapters 30, 34 or 36 apply only with respect to veterans who die or pursue educations during the period covered by the orders.

The balanced-budget Act was a courageous attempt by the Congress to reduce Federal deficits that adversely affect all Americans, veterans included. The Congress bound itself to either adopt budget resolutions that will eventually eliminate the deficit or, failing that, to authorize broad sequestrations of funds to assure that Federal outlays do not exceed specified targets.

While it was hoped that future sequestrations would not be necessary, the framers of the Act also realized that should automatic cuts be required they should be as broad (and therefore as shallow) as possible. Protections were included for VA compensation and pension recipients, whose very sustenance may depend upon their monthly benefits, and for overall VA health-care expenditures. However, with some other exceptions (most notably, Social Security) the cuts would be "across the board."

Public support for this plan is in large measure attributable to the breadth of programs subject to sequestration. As long as any resulting dislocation is widely shared, this much-deserved support will remain strong.

For that reason, the Administration opposes any exemptions for veterans' programs now clearly covered by the terms of the Act that would result in additional Government spending. Home loan guaranties, burial allowances, vocational rehabilitation and other VA programs expressly covered by the Act are extremely valuable ones. However, we can foresee that debates over the relative merits of programs for various constituencies would generate ill will among competing interests and erode support for the Act. The current exemptions for VA benefits and services already place disabled veterans and their survivors in a deservedly preferred category.

On the other hand, the Administration would support legislation that would prospectively exempt two important veterans' programs: the special therapeutic and rehabilitation activities fund, and the Canteen Service revolving fund. These two funds are self-financing and their exemption would not adversely affect the budget deficit.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART I—GENERAL PROVISIONS

Chapter	Sec.
1. General	101
3. Veterans' Administration: Officers and Employees	201

CHAPTER 1—GENERAL

Sec.
101. Definitions.
102. Dependent parents; husbands.
103. Special provisions relating to marriages.
104. Approval of educational institutions.
105. Line of duty and misconduct.
106. Certain service deemed to be active service.
107. Certain service deemed not to be active service.
108. Seven-year absence presumption of death.
109. Benefits for discharged members of allied forces.
110. Preservation of disability ratings.
111. Travel expenses.
112. Presidential memorial certificate program.
113. Treatment of certain programs under sequestration procedures.

* * * * * * *

§ 113. Treatment of certain programs under sequestration procedures

(a) The following programs shall be exempt from inclusion in any joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office, and from inclusion in any presidential order, under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.):

(1) Benefits under chapter 21 of this title, relating to specially adapted housing for disabled veterans.

(2) Benefits under section 907 of this title, relating to burial benefits for veterans who die as the result of a service-connected disability.

(3) Assistance under chapter 31 of this title, relating to training and rehabilitation for veterans with service-connected disabilities.

(4) Benefits under chapter 35 of this title, relating to educational assistance for survivors and dependents of certain veterans with service-connected disabilities.

(5) Benefits under chapter 39 of this title, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

(b) The following accounts of the Veterans' Administration shall be exempt from inclusion in any joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office, and from inclusion in any presidential order, under part C of

the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.):

(1) The following life insurance accounts:

(A) The National Service Life Insurance Fund authorized by section 720 of this title.

(B) The Service-Disabled Veterans Insurance Fund authorized by section 722 of this title.

(C) The Veterans Special Life Insurance Fund authorized by section 723 of this title.

(D) The Veterans Reopened Insurance Fund authorized by section 725 of this title.

(E) The United States Government Life Insurance Fund authorized by section 755 of this title.

(F) The Veterans Insurance and Indemnity appropriation authorized by section 719 of this title.

(2) The following revolving fund accounts:

(A) The Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund established by section 618(c) of this title.

(B) The Veterans' Canteen Service revolving fund authorized by section 4204 of this title.

(c)(1) A benefit under section 901, 902, 903, 906, or 908 of this title that is subject to reduction under a sequestration order or sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect on the date of the death of the veteran concerned.

(2) A benefit paid to, or on behalf of, an eligible veteran for pursuit of a program of education or training under chapter 30, 34, or 36 of this title that is subject to a sequestration order or a sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect during the period of education or training for which the benefit is paid.

(d) In computing the amount of new budget authority by which a budget account of the Veterans' Administration is to be reduced for a fiscal year under a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office, or under an order of the President under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the base from which the amount of the reduction for such account is determined shall be established without regard to any amount of new budget authority available in such account for any of the programs listed in subsection (a) of this section.

(e) For purposes of this section:

(1) The term "sequestration" means a reduction in spending authority and loan guarantee commitments generally throughout the Government pursuant to law under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law.

(2) The term "sequestration law" means a law enacted with respect to a sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law (under the procedures specified in that Act or otherwise).

(3) The term "sequestration order" means an order of the President issued under part C of such Act.

PART II—GENERAL BENEFITS

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CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * * * *

Subchapter II—Wartime Disability Compensation

* * * * * * *

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while disability is rated 10 percent the monthly compensation shall be [$68] *$69*;

(b) if and while disability is rated 20 percent the monthly compensation shall be [$126] *$129*;

(c) if and while disability is rated 30 percent the monthly compensation shall be [$191] *$195*;

(d) if and while disability is rated 40 percent the monthly compensation shall be [$274] *$279*;

(e) if and while disability is rated 50 percent the monthly compensation shall be [$388] *$396*;

(f) if and while disability is rated 60 percent the monthly compensation shall be [$489] *$499*;

(g) if and while disability is rated 70 percent the monthly compensation shall be [$617] *$629*;

(h) if and while disability is rated 80 percent the monthly compensation shall be [$713] *$727*;

(i) if and while disability is rated 90 percent the monthly compensation shall be [$803] *$819*;

(j) if and while disability is rated as total the monthly compensation shall be [$1,335] *$1,362*;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be [$62] *$63* per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed [$1,659] *$1,692* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed [$2,325] *$2,372* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,659] *$1,692*;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prosthesis in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prosthesis in place, or has suffered blindness in both eyes, having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,829] *$1,866*;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prosthesis in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be [$2,080] *$2,122*;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be [$2,325] *$2,372*;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of [$2,325] *$2,372*. In the event the veteran has suffered service-connected blindness, with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 30 percent disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total

deafness in one ear, or service-connected anatomical loss or loss of use of one hand or one foot, the Administrator shall allow the next intermediate rate, but in no event in excess of [$2,325] *$2,372*. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of [$2,325] *$2,372*. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned;

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of [$998] *$1,018*; or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,487] *$1,517*, in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans's Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability;

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 percent or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be [$1,494] *$1,524*. For the purposes of this subsection, the requirement of permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 percent or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 percent or more, the monthly rate of compensation payable to such veteran shall be increased by [$289] *$295*.

(2) If a veteran described in paragraph (1) of this subsection receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child, [$81] *$83;*

(B) has a spouse and one or more children, [$136 plus $43] *$139 plus $44* for each child in excess of one;

(C) has no spouse but one or more children, [$56 plus $43] *$57 plus $44* for each child in excess of one;

(D) Has a parent dependent upon such veteran for support, then, in addition to the above amounts, [$66] *$67* for each parent so dependent;

(E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendence of another person, shall be [$147] *$150* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(F) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be [$124] *$126* for a totally disabled veteran in accordance with paragraph (2) of this section.

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Subchapter V—Peacetime Death Compensation

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§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of [$360] *$367* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

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CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

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Subchapter II—Dependency and Indemnity Compensation

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§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

[Pay grade	Monthly rate	Pay grade	Monthly rate
[E–1	$491	W–4	$703
[E–2	505	O–1	621
[E–3	518	O–2	640
[E–4	552	O–3	686
[E–5	566	O–4	725
[E–6	578	O–5	799
[E–7	607	O–6	900
[E–8	640	O–7	973
[E–9	[1] 669	O–8	1,067
[W–1	621	O–9	1,145
[W–2	645	O–10	[2] 1,255
[W–3	664		

[[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $722.

[[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,345.]

Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E–1	*$501*	*W–4*	*$717*
E–2	*515*	*O–1*	*633*
E–3	*528*	*O–2*	*653*
E–4	*563*	*O–3*	*700*
E–5	*577*	*O–4*	*740*
E–6	*590*	*O–5*	*815*
E–7	*619*	*O–6*	*918*

Pay grade	Monthly rate	Pay grade	Monthly rate
E–8	653	O–7	992
E–9	[1] 682	O–8	1,088
W–1	633	O–9	1,168
W–2	658	O–10	[2] 1,280
W–3	677		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $736.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,372.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by [$57] *$58* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$147] *$150* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$72] *$73* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

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§ 413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, [$247] *$252*;

(2) two children, [$356] *$363*;

(3) three chidren, [$460] *$469*; and

(4) more than three children, [$460 plus $93] *$469 plus $95* for each child in excess of three.

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§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by [$147] *$150*.

(b) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse in the amount of [$247] *$252*.

(c) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$126] *$129*.

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

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Subchapter III—Administrative Provisions

1820. Powers of Administrator.

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1831. Exemption from certain provisions of law.

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Subchapter III—Administrative Provisions

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§ 1831. Exemption from certain provisions of law

The housing loan programs provided in this chapter shall be exempt from reduction under any sequestration order or any sequestration law (as such terms are defined in section 113(e) of this title).

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

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§ 3202. Payments to and supervision of fiduciaries

(a) * * *

(b) Whenever it appears that any guardian, curator, conservator, or other person, in the opinion of the Administrator, is not properly executing or has not properly executed the duties of his trust or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are inequitable or in excess of those allowed by law for the duties performed or expenses incurred, or has failed to make such payments as may be necessary for the benefit of the ward or the dependents of the ward, then the Administrator may appear, by his duly authorized attorney, in the court which has appointed such fiduciary, or in any court having original, concurrent, or appellate jurisdiction over said cause, and make proper presentation of such matters. The Administrator, in his discretion, may suspend payments to any such guardian, curator, conservator, or other person who shall neglect or refuse, after reasonable notice, to render an account to the Administrator from time to time showing the application of such payments for the benefit of such incompetent or minor beneficiary, or who shall neglect or refuse to administer the estate according to law. *The Administrator may, as a part of the accounting process, require the fiduciary to disclose any additional financial information concerning the beneficiary that is within the fiduciary's knowledge.* The Administrator may appear or intervene by his duly authorized attorney in any court as an interested party in any litigation instituted by himself or otherwise, directly affecting money paid to such fiduciary under this section.

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